

1 BILAL A. ESSAYLI
2 Acting United States Attorney
3 JOSEPH T. MCNALLY
4 Assistant United States Attorney
5 Acting Chief, Criminal Division
6 WILSON PARK (Cal. Bar No. 239527)
7 KELLYE NG (Cal. Bar No. 313051)
8 Assistant United States Attorneys
9 Major Crimes Section
10 DANBEE KIM (Cal. Bar No. 350014)
11 Assistant United States Attorney
12 Environmental Crimes and Consumer Protection Section
13 1300/1400 United States Courthouse
14 312 North Spring Street
15 Los Angeles, California 90012
16 Telephone: (213) 894-6702/6495/0687
17 Facsimile: (213) 894-0141
18 Email: wilson.park@usdoj.gov
19 kellye.ng@usdoj.gov
20 danbee.kim@usdoj.gov

21 Attorneys for Plaintiff
22 UNITED STATES OF AMERICA

23 UNITED STATES DISTRICT COURT

24 FOR THE CENTRAL DISTRICT OF CALIFORNIA

25 UNITED STATES OF AMERICA,

No. CR 22-573 (A)-FWS-2

26 Plaintiff,

GOVERNMENT'S OPPOSITION TO
DEFENDANT RONNY ROJAS'S EX PARTE
APPLICATION FOR ORDER STAYING
PROCEEDINGS (DKT. 264)

v.

27 RONNY ROJAS, et al.,

28 Defendants.

29 Plaintiff United States of America, by and through its counsel
30 of record, the Acting United States Attorney for the Central District
31 of California and Assistant United States Attorneys Wilson Park,
32 Kellye Ng, and Danbee Kim, hereby files the government's opposition
33 to defendant Ronny Rojas's ex parte application for an order staying
34 proceedings (Dkt. 264).

This opposition is based upon the attached memorandum of points and authorities, the files and records in this case, and such further evidence and argument as the Court may permit.

BILAL A. ESSAYLI
Acting United States Attorney

JOSEPH T. McNALLY
Assistant United States Attorney
Acting Chief, Criminal Division

/s/
WILSON PARK
KELLYE NG
DANBEE KIM
Assistant United States Attorneys

Attorneys for Plaintiff
UNITED STATES OF AMERICA

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 No stay is warranted in this case. Even if there were any merit
3 to defendant's arguments under the Federal Vacancies Reform Act or
4 Appointments Clause, there would still be no basis to dismiss the
5 first superseding indictment or halt the prosecution in this matter.
6 As recognized by the Ninth Circuit in United States v. Gantt, 194
7 F.3d 987, 998 (9th Cir. 1999) overruled on other grounds by United
8 States v. W.R. Grace, 526 F.3d 499, 506 (9th Cir. 2008) (en banc),
9 "[a]n infirmity in the United States Attorney's appointment would not
10 generally affect the jurisdiction of this court so long as a proper
11 representative of the government participated in the action."

12 A case can be prosecuted without a U.S. Attorney: "indictments
13 need only be signed by an 'attorney for the government.'" Id. at 998
14 (quoting Fed. R. Crim. P. 7(a)(1)). The First Circuit has likewise
15 concluded that an Assistant United States Attorney's ("AUSA")
16 "ability to act does not hinge on the authority of the local United
17 States Attorney, but derives from the Attorney General's plenary
18 power over litigation to which the United States is a party, see [28
19 U.S.C.] § 516." United States v. Hilario, 218 F.3d 19, 22 (1st Cir.
20 2000); see also United States v. Suescun, 237 F.3d 1284, 1287 (11th
21 Cir. 2001) ("An appointment of a United States Attorney that is not
22 made as provided by the Appointments Clause does not affect the
23 Government's power to prosecute."). In other words, pursuant to
24 their authority derived from the Attorney General, the assigned AUSAs
25 can continue to prosecute this case.

26 Defendant also advances an Appropriations Clause argument, but
27 fails to explain why a violation of that clause would lead to
28 dismissal of an indictment. The lone authority he cites is United

1 States v. Trump, 740 F. Supp. 3d 1245, 1307 (S.D. Fla. 2024), an out-
2 of-circuit district court decision that expressly stated it was not
3 dismissing an indictment based on an Appropriations Clause violation,
4 but which quoted a concurring opinion about how the Consumer
5 Financial Protection Bureau's (purportedly) unconstitutional funding
6 structure should result in dismissal of its civil actions. CFPB v.
7 All Am. Check Cashing, Inc., 33 F.4th 218, 242 (5th Cir. 2022)
8 (Jones, J., concurring). But see CFPB v. Cmtv. Fin. Servs. Ass'n of
9 Am., 601 U.S. 416, 424 (2024) (CFPB's "funding mechanism does not
10 violate the Appropriations Clause"). Regardless, whatever the
11 "intuitive appeal to applying Judge Jones's logic," 740 F. Supp. 3d
12 at 1307, it is far afield from this case, where there is no dispute
13 about the funding for the grand jury that indicted defendant or the
14 AUSAs who are prosecuting him.

15 In light of the above, no stay is warranted because defendant
16 cannot show that he is likely to succeed on his motion to dismiss the
17 first superseding indictment, or that he will be irreparably injured
18 absent a stay. See Nken v. Holder, 556 U.S. 418, 433-35 (2009).
19 Even if defendant were to prevail on his argument to the same extent
20 as the defendant in United States v. Giraud, -- F. Supp. 3d --, 2025
21 WL 2416737 (D.N.J. Aug. 21, 2025), it would not affect his trial
22 date. In all events, the government's opposition to defendant's
23 motion to dismiss will be filed on Friday, September 19, 2025, and
24 will provide a full response to defendant's motion on the merits.

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